



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बुधवार, १० नवम्बर, १९९३/१९ कार्तिक, १९१५

हिमाचल प्रदेश सरकार

LAW DEPARTMENT
Legislation (English) Section

NOTIFICATION

Shimla-2, 19th October, 1993

No. LLR-E (9)-7/93-Legislation.—The following Ordinances promulgated by the President of India, on 28th September, 1993, 29th September, 1993 and 1st, October, 1993 in the Gazette of India, Extraordinary, Part II, Section 1, are hereby republished in the Himachal Pradesh Government Rajpatra, Extra-ordinary for the information of the General public:—

1. The Protection of Human Rights Ordinance, 1993. (Ordinance No. 30 of 1993)
2. The Kalakshitra Foundation Ordinance, 1993. (Ordinance No. 31 of 1993)
3. The Chief Election Commissioner and Other Election Commissioners (Conditions of Services) Amendment Ordinance, 1993 (Ordinance No. 32 of 1993)

By order,
Sd/-
Secretary.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 28th September, 1993/Asvina 6, 1915 (Saka)

THE PROTECTION OF HUMAN RIGHTS ORDINANCE, 1993

No. 30 OF 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An ordinance to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

WHERE as the Human Rights Commissions Bill, 1993 for the constitution of the said Commissions has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Protection of Human Rights Ordinance, 1993.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

(a) “armed forces” means the naval, military and air forces and includes any other armed forces of the Union;

(b) “Chairperson” means the Chairperson of the Commission or of the State Commission as the case may be;

(c) “Commission” means the National Human Rights Commission constituted under section 3;

(d) “Human rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Conventions and enforceable by courts in India;

(e) “Human Rights Court” means the Human Rights Court specified under section 30;

(f) “International Conventions” means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by

the General Assembly of the United Nations on the 16th December, 1966;

(g) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;

(h) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992; (19 of 1992.)

(i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;

(j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990; (20 of 1990.)

(k) "notification" means a notification published in the Official Gazette;

(l) "prescribed" means prescribed by rules made under this Ordinance;

(m) "public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code;

(n) "State Commission" means a State Human Rights Commission constituted under section 21. (45 of 1860.)

(2) Any reference in this Ordinance to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State be construed as a reference to a corresponding law, if any, in force in that State.

CHAPTER II

THE NATIONAL HUMAN RIGHTS COMMISSION

3. *Constitution of a National Human Rights Commission.*—(1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, it under this Ordinance.

(2) The Commission shall consist of—

- (a) a Chairperson who has been a Chief Justice of the Supreme Court;
- (b) one Member who is, or has been, a Judge of the Supreme Court;
- (c) one Member who is, or has been, the Chief Justice of a High Court;
- (d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women, shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (f) of section 12.

(4) There shall be a Secretary General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

4. *Appointment of Chairperson and other Members.*—(1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal:—

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of—

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|---|--------------|
| (a) the Prime Minister | —Chairperson |
| (b) Speaker of the House of the People | —member |
| (c) Minister-in-charge of the Ministry of Home Affairs in the Government of India | —member |
| (d) Leader of the Opposition in the House of the People | —member |
| (e) Leader of the Opposition in the Council of States | —member |
| (f) Deputy Chairman of the Council of States | —member |

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

5. *Removal of a Member of the Commission.*—(1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on references being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

- is adjudged an insolvent; or
- engages during his term of office in any paid employment outside the duties of his office; or
- is, unfit to continue in office by reason of infirmity of mind or body; or
- is of unsound mind and stands so declared by a competent court; or
- is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

6. *Term of office of Members.*—(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years;

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

7. Member to act as Chairperson or to discharge his functions in certain circumstances.—

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

8. Terms and conditions of service of Members.—The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

9. Vacancies, etc. not to invalidate the proceedings of the Commission.—No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

10. Procedure to be regulated by the Commission.—(1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

11. Officers and other staff of the Commission.—(1) The Central Government shall make available to the Commission—

(a) an officer of the rank of the Secretary to the Government of India who shall be the Secretary General of the Commission; and

(b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

12. Functions of the Commission.—The Commission shall perform all or any of the following functions, namely :—

(a) inquire, *sue motu* or on a petition presented to it by victim or any person on his behalf.

into complaint of,—

- (i) violation of human rights or abetment thereof; or
- (ii) negligence in the prevention of such violation, by a public servant;
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- (g) undertake and promote research in the field of human rights;
- (h) spread human rights literacy among various sections of society and promote awareness, of the safeguards available for the protection of these rights, through publications, the media, seminars and other available means;
- (i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- (j) such other functions as it may consider necessary for the promotion of human rights.

13. Powers relating to inquiries.—(1) The Commission shall, while inquiring into complaints under this Ordinance have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, (5 of 1908) and in particular in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person subject to any privilege which may be claimed by that person under any law for the time being in force to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

(3) The Commission or any other office officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, 2 of 1974, in so far as it may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is

committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 (2 of 1974) forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for purposes of section 196, of the Indian Penal Code, (45 of 1860) and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973, 2 of 1974.

14. Investigation.—(1) The Commission may for the purpose of conducting any investigation pertaining to the inquiry utilise the services of any officer of investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission,—

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public or record or copy thereof from any office.

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted the investigation as it thinks fit.

15. Statement made by persons to the Commission.—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement;

Provided that the statement:—

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

16. Persons likely to be prejudicially affected to be heard.—If, any stage of the inquiry, the Commission,—

- (a) considers it necessary to inquire into the conduct of any person; or
- (b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER IV

PROCEDURE

17. *Inquiry into complaints.*—The Commission while inquiring into the complaints of violations of human rights may—

- (i) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it;

Provided that—

- (a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;
- (b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly.
- (ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18. *Steps after inquiry.*—The Commission may take any of the following steps upon the completion of an inquiry held under this Ordinance, namely :—

- (1) where the inquiry discloses, the commission of violation of human rights, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit, against the concerned person or persons;
- (2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
- (3) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;
- (4) subject to the provisions of clause (5) provide copy of the inquiry report to the petitioner or his representative;
- (5) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;
- (6) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority if, any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

19. *Procedure with respect to armed forces.*—(1) Notwithstanding anything contained in this Ordinance, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely :—

- (a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;
- (b) after the receipt of the report, it may either not proceed with the complaint or as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

(4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

20. *Annual and special reports of the Commission.*—(1) The Commission shall submit an annual report to the Central Government and to the State Government concerned any may at any time submit special reports on any matter which, in its opinions, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

CHAPTER V

STATE HUMAN RIGHTS COMMISSIONS

21. *Constitution of State Human Rights Commissions.*—(1) A State Government may constitute a body to be known as the.....(name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.

(2) The State Commission shall consist of—

- (a) a Chairperson who has been a Chief Justice of a High Court;
- (b) one Member who is, or has been a Judge of a High Court;
- (c) one Member who is, or has been, a district judge in that State;
- (d) two members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.

(4) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

(5) A State Commission may inquire into violation of human rights only in respect of

matters relating to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution;

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter:

Provided further that in relation to the Jammu and Kashmir Juma Rights Commission, this sub-section shall have effect as if that for the words and figures "List II and List III" the words and figures "List III as applicable to the State of Jammu and Kashmir", had been substituted.

22. Appointment of Chair-person and other Members of State Commission.—(1) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of,—

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| (a) the Chief Minister | —chairperson; |
| (b) Speaker of the Legislative Assembly | —member; |
| (c) Minister in-charge of the Department of Home in that State | —member; |
| (d) Leader of the Opposition in the Legislative Assembly | —member; |

Provided further that where there is a Legislative Council in a State, the Chairman of that Council and the leader of the opposition in that Council shall also be members of the Committee;

Provided also that no sitting Judge of a High Court or a sitting district judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

23. Removal of a Member of the State Commission.—(1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehavior or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

- is adjudged an insolvent; or
- engages during his term of office in any paid employment outside the duties of his office; or
- is, unfit to continue in office by reason of infirmity of mind or body; or
- is of unsound mind and stands so declared by a competent court; or
- is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

24. Term of office of Members of the State.—(1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

25. Member to act as Chair person or to discharge his functions in certain circumstances.—(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

26. Terms and conditions of service of Members of the State Commission.—The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government;

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

27. Officers and other staff of State Commission.—(1) The State Government shall make available to the Commission—

(a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and

(b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

28. Annual and special reports of State Commission.—(1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of

action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendation, if any.

29. Application of certain provisions relating to National Human Rights Commission to State Commissions.—The provisions of sections 9,10,12,13,14,15,16,17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely :—

- (a) references to "Commission" shall be construed as references to "State Commission",
- (b) in section 10, sub-section (3) for the word, "Secretary-General", the word "Secretary" shall be substituted;
- (c) in section 12, clause (f) shall be omitted;
- (d) in section 17, in clause (i) the words "Central Government or any" shall be omitted.

CHAPTER VI

HUMAN RIGHTS COURTS

30. Human Rights Court.—For the purpose of providing for speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences:

Provided that nothing in this section shall apply if—

- (a) a Court of Session is already specified as a special court; or
- (b) a special court is already constituted,

for such offences under any other law for the time being in force.

31. Special Public Prosecutor.—For every Human Rights Court, the State Government shall by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose conducting cases in that Court.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

32. Grants by the Central Government.—(1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Ordinance.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Ordinance, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

33. Grants by the State Government.—(1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Ordinance.

(2) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

34. *Accounts and audit.*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultations with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be, after it is received, before each House of Parliament.

35. *Accounts and audit of State Commission.*—(1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.

(4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be, after it is received, before the State Legislature.

CHAPTER VIII

MISCELLANEOUS

36. *Matters not subject to jurisdiction of the Commission.*—(1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

(2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

37. *Constitution of special investigation teams.*—Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

38. *Protection of action taken in good faith.*—No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, State Commission or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, the Commission or the State Commission of any report, paper or proceedings.

39. *Members and officers to be public servants.*—Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. (45 of 1860).

40. *Power of Central Government to make rules.*—(1) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

- (a) the salaries and allowances and other terms and conditions of service of the Members under section 8;
- (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 11;
- (c) any other power of a civil court required to be prescribed under clause (f) of sub-section (1) of section 13;
- (d) the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 34; and
- (e) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

41. *Power of State Government to make rules.*—(1) The State Government may, by notification, make rules to carry out the provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

- (a) the salaries and allowances and other terms and conditions of service of the Members under section 26;

(b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 27;

(c) the form in which the annual statement of accounts is to be prepared under sub-section (1) of section 35.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SHANKER DAYAL SHARMA,
President.

K.L.MOHANPURIA,
Secy. to the Govt. of India.

CORRIGENDA

In the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Ordinance, 1993 (Ord. 4 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 2nd January, 1993 (Issue No. 6),—

At page 3,—

(i) in line 20, for “section 4 and 5”, read “sections 4 and 5”;

(ii) in line 32, for “at he end”, read “at the end”.

CORRIGENDA

In the Industrial Finance Corporation (Transfer of Undertaking and Repeal) Ordinance, 1993 (Ord. 5 of 1993) as published in the Gazette of India Extraordinary, Part II, section 1, dated the 2nd January, 1993 (Issue No. 7),—

1. At page 2, in line 4, for “Act”, read “Ordinance”.

2. At page 3,—

(i) in line 37, for “Director of the Board”, read “a Director of the Board”;

(ii) in line 42, for “shall held”, read “shall hold”.

3. At page 4, in line 20, for “trust” read “trusts”.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 29th September, 1993/Asvina 7, 1915 (Saka)

THE KALAKSHETRA FOUNDATION ORDINANCE, 1993
No. 31 of 1993

Promulgated by the President in the Forty-fourth Year of the Republic of India,

An Ordinance to declare Kalakshetra of Madras to be an institution of national importance, to provide for the establishment and incorporation of a Foundation for its administration, to make provisions for further development of Kalakshetra in accordance with the aims and objects for which Kalakshetra was founded and for matters connected there with or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title and commencement.*—(1) This Ordinance may be called the Kalakshetra Foundation Ordinance, 1993.

(2) It shall come into force at once.

2. *Declaration of Kalakshetra as an institution of national importance.*—Whereas the objects of the institution known as Kalakshetra at Adyar, Madras in the State of Tamil Nadu, founded by the late Thirumathi Rukmini Devi Arundale, are such as to make the institution one of national importance, it is hereby declared that the institution known as Kalakshetra is an institution of national importance.

3. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) “Academic Committee” means the Academic Committee constituted under section 15 ;

(b) “appointed day” means the date on which the Foundation is established under sub-section (1) of section 8 ;

(c) “Board of Trustees” means the Board of Trustees managing the affairs of Kalakshetra under the ‘scheme writ’ approved by the Madras High Court in petition No. 716 of 1985 ;

(d) “constituent units” means the units of Kalakshetra specified in the First Schedule ;

(e) “Director” means the Director appointed under sub-section (1) of section 19 ;

(f) “Finance Committee” means the Finance Committee constituted under sub-section (1) of section 17 ;

- (g) "Foundation" means the Kalakshetra Foundation established under sub-section (1) of section 8;
- (h) "Fund" means the Fund of the Foundation referred to in section 22;
- (i) "Governing Board" means the Governing Board constituted under section 11 ;
- ★ (j) "Kalkshetra" means the institution known as Kalakshetra founded by late Thirumathi Rukmini Devi Arundale, situated at Adyar, Madras, and includes its constituent units ;
- (k) "notification" means a notification published in the Official Gazette;
- (l) "Member" means a Member of the Governing Board and includes the Chairperson thereof ;
- (m) "prescribed" means prescribed by rules made under this Ordinance ;
- (n) "regulations" means regulations made under section 32 ;
- (o) "Schedule" means a Schedule annexed to this Ordinance ;
- (p) "State Government" means the Government of Tamil Nadu.

CHAPTER II

ACQUISITION AND TRANSFER OF THE ASSETS AND PROPERTIES OF KALAKSHETRA

4. *Transfer to and vesting in Central Government of assets and properties of Kalakshetra.*—On the commencement of this Ordinance, the right, title and interest in relation to the assets and properties of Kalakshetra specified in the Second Schedule and vested in the Board of Trustees or any other body, in whatever capacity, shall stand transferred to and vest in, the Central Government.

5. *General effect of vesting.*—(1) The right, title and interest vested in the Central Government under section 4 shall be deemed to include all the assets, rights, lease-holds, powers, authorities, licences and privileges ; all property (movable and immovable) including lands and buildings ; musical instruments ; equipments used in teaching, training and staging of performing arts ; tools and facilities used in arts and crafts ; costumes and decorative items ; books ; stationery, furniture and other equipments used in libraries and laboratories ; works of art and artefacts ; stores, automobiles and other vehicles ; workshops , cash balances, funds including reserve funds, investments and all other rights and interests arising out of such assets and properties as were, immediately before the commencement of this Ordinance in the possession, ownership, power or control of the Board of Trustees or any other body, in whatever capacity, and all books of account, registers, maps, plans and all other documents of whatever nature relating thereto.

(2) All assets and properties as aforesaid which have vested in the Central Government under section 4 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them or of any attachment, injunction, decree or order of any court or other authority restricting the use of such assets or properties in any manner , or appointing any receiver in respect of the whole or any part of such assets and properties shall be deemed to have been withdrawn.

(3) Any licence, permission, authority, concession, facility, privilege, affiliation or any other instrument of similar nature granted to the Board of Trustees or any other body, in whatever capacity, in relation to the assets and properties of Kalakshetra or any of its constituent units

which has vested in the Central Government under section 4, at any time before the commencement of this Ordinance and in force immediately before such commencement shall continue to be in force on and after such commencement in accordance with its tenor in relation to, and for purposes of, such assets and properties, or where the direction under section 6 has been issued, the Foundation shall be deemed to be substituted in such licence, permission, authority, concession, facility, privilege, affiliation or other instrument, as if it had been granted to the Foundation and the Foundation shall hold it for the remainder of the period for which the Board of Trustees or any other body, in whatever capacity, would have held it under the terms thereof.

(4) If on the commencement of this Ordinance, any suit, appeal or other proceeding of whatever nature in relation to any assets or properties which have vested in the Central Government under section 4, instituted or preferred by the Board of Trustees is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of such transfer and vesting, or of anything contained in this Ordinance, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, by the Central Government or where the right, title and interest in relation to such assets and properties are directed under section 6 to vest in the Foundation, by the Foundation.

6. *Central Government to direct vesting of assets and properties in the Foundation.*—(1) Notwithstanding anything contained in section 4 and 5, the Central Government shall direct, by notification, that the right, title and interest in relation to the assets and properties of Kalakshetra, which had vested in it under section 4, shall vest in the Foundation on such date, not being a date earlier than the date of commencement of this Ordinance, as may be specified in the notification.

(2) On and from the date of vesting of the right, title and interest in relation to the assets and properties of Kalakshetra in the Foundation under sub-section (1),—

- (a) the Foundation shall be deemed to have become the owner of the assets and properties ; and
- (b) The rights and liabilities of the Central Government, in relation to such assets and properties shall be deemed to have become the rights and liabilities respectively of the Foundation.

7. *Duty of persons to deliver and to account for assets, properties, etc.*—(1) On the vesting in the Central Government of the assets and properties of Kalakshetra, all persons in charge of the management of the said assets and properties immediately before the date of such vesting, shall be bound to deliver to the Central Government or to the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf, all assets, properties, books of account, registers or other documents in their custody relating to the assets and properties of Kalakshetra.

(2) Every person who has, in his possession or control any assets, properties, books, documents or other papers relating to Kalakshetra which have vested in the Central Government or the Foundation under this Ordinance, and which belong to Kalakshetra or would have so belonged if Kalakshetra had not vested in the Central Government or the Foundation, shall be liable to account for the said assets, properties, books, documents and other papers to the Central Government or the Foundation, as the case may be, and shall deliver them up to the Central Government or the Foundation or to such person or body of persons as the Central Government or the Foundation may specify in this behalf.

(3) The Central Government shall take or cause to be taken all necessary steps for securing possession of assets and properties of Kalakshetra which have vested in it under section 4.

CHAPTER III

KALAKSHETRA FOUNDATION

8. *Establishment and incorporation of Foundation.*—(1) With effect from such date as the Central Government may, by notification, appoint in this behalf there shall be established a Foundation to be called the Kalakshetra Foundation.

(2) The Foundation shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable, and to contract and shall by the said name sue and be sued.

(3) The office of the Foundation shall be located at Thiruvannamipur, Madras.

9. *The Objects of Foundation.*—The objects of the Foundation shall be,—

(i) to emphasise the essential unity of all true arts;

(ii) to work for the recognition of the arts as vital to the individual, national and international growth ;

(iii) to maintain the highest traditions of art and culture in their pristine purity and in conformity with traditions ;

(iv) to arrange for the training, research, study, teaching and development of art and science, music, dance-drama, fine arts and Bharat-Natyam ; and

(v) to ensure that the principles of “education without fear” and “art without vulgarity” are adhered to in the activities of the Foundation and not to permit any deviation from these high ideals.

10. *Authorities of the Foundation.*—The Foundation, shall consist of the following authorities, namely:—

(a) the Governing Board ;

(b) the Academic Committee ; and

(c) the Finance Committee.

(2) In the discharge of functions and exercise of powers under this Ordinance, the authorities referred to in sub-section (1) shall be guided by the objects specified in section 9.

11. *The Governing Board shall consist of—*

(a) a Chairperson, who shall be a person of high eminence in public life, to be appointed by the Central Government ;

(b) not more than twelve Members to be nominated by the Central Government from amongst persons who—

(i) have rendered valuable service to Kalakshetra ;

(ii) have been connected with, or have knowledge of art, culture, folk arts and craft ;

(iii) are eminent artistes ; and

(iv) are patrons of art and culture ;

- (c) two persons, possessing one or more of the qualifications referred to in sub-clauses (i) to (iv) of clause (b), to be nominated by the State Government ;
- (d) two officers of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government, to represent the Ministry of the Central Government dealing with Culture, *ex officio* ;
- (e) one officer of the State Government , not below the rank of Joint Secretary, to be nominated by that Government, to represent the Department of Education of that Government, *ex officio* ; and
- (f) the Director, *ex officio*.

12. *Term of office of Members.*—(1) The term of office of the Members shall be five years from the date of constitution of the Governing Board.

(2) If a casual vacancy occurs in the office of a Member nominated under clause (b) or clause (c) of sub-section (1) of section 11, whether by reason of his death, resignation or inability to discharge his functions owing to by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by making fresh nomination and the Member so nominated, shall hold office for the remainder of the term of office of the Member in whose place he is so nominated.

(3) An outgoing Member shall be eligible for re-nomination.

(4) A Member may resign his office by writing under his hand addressed to the Central Government but shall continue in office until his resignation is accepted by that Government.

(5) The Members nominated under clauses (b) and (c) of sub-section (1) of section 11 shall be entitled to such allowances as may be prescribed.

13. *Meeting of Governing Board.*—(1) The Government Board shall meet at least twice in a year at Madras at such time as may be fixed by the Chair person of the Governing Board.

(2) All decisions at the meeting of the Governing Board shall be taken by majority of the Members present and voting :

Provided that in the case of equality of votes the Chair person of the Governing Board shall have a casting vote.

(3) The Governing Board shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at its meetings) as may be specified by regulations.

(4) No act or proceeding of the Governing Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution, the Governing Board ; or
- (b) any defect in the nomination of a person acting as a Member of the Governing Board ; or
- (c) any irregularity in the procedure of the Governing Board not affecting the merits of the case.

14. (1) *Governing Board to be the supreme authority of Foundation.*—The Governing Board shall be the supreme authority of the Foundation and the general superintendence, direction and management of the affairs of the foundation shall vest in the Governing Board.

(2) The Governing Board shall exercise such powers and discharge such functions as may be prescribed.

15. *Academic Committee.*—(1) The Academic Committee shall consist of—

- (a) the Director;
- (b) the Heads of the constituent units;
- (c) three distinguished persons in the field of art and culture including dance, music, folk arts and crafts, to be nominated by the Central Government; and
- (d) one person to be nominated by the State Government, representing the Department of Education of that Government.

(2) The tenure of office and other terms and conditions of the members of the Academic Committee shall be such as may be specified by regulations.

(3) The Academic Committee shall observe such procedure in regard to the transaction of its business at its meetings (including the quorum at the meetings) as may be specified by regulations.

16. *Powers and functions of Academic Committee.*—The Academic Committee shall be responsible for the maintenance of standards of education training and examination conducted by the constituent units and shall exercise such other powers and perform such other functions as may be assigned to it, from time to time, by the Governing Board.

17. (1) Finance Committee shall consist of—

- (a) the Financial Adviser to the Government of India or his nominee in the Ministry of Central Government dealing with Culture;
- (b) an officer of the Central Government, not below the rank of a Deputy Secretary, to be nominated by that Government;
- (c) an officer of the State Government not below the rank of a Deputy Secretary to be nominated by that Government, representing the Department of Finance of that Government; and
- (d) the Director.

(2) The Finance Committee shall observe such procedure in regard to the transaction of the business at its meetings as may be specified by regulations.

18. *Powers and functions of Finance Committee.*—The Finance Committee shall—

- (i) scrutinise the annual statement of accounts and budget estimates of the Foundation prepared by the Director and make recommendations to the Governing Board;
- (ii) prescribe the limits of the recurring and non-recurring expenditure of the Foundation for each financial year;
- (iii) review the financial position of the Foundation from time to time and have an internal audit conducted; and
- (iv) perform such other functions as may be prescribed.

19. *Appointment and duties of Director.*—(1) The Central Government shall, by notification, appoint a Director who shall be the principal executive officer of the Foundation and shall be, responsible for the proper administration of the affairs of the Foundation and its day-to-day management and shall exercise such other powers and perform such other duties as may be assigned to him by the Government Board.

(2) The Director shall prepare the annual statement of accounts and budget estimates of the Foundation for scrutiny by the Finance Committee.

(3) The Director shall be a whole time employee of the Foundation and shall be entitled to such salary and allowances out of the Fund and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters, as may be prescribed.

20. *Transfer of service of existing employees.*—On and from the appointed day, every officer or other employee, employed immediately before the appointed day in connection with the affairs of Kalakshetra shall become an officer or other employee of the Foundation and shall hold office by the same tenure and remuneration and on the same terms and conditions as to pension, gratuity and other matters as he would have held under the Board of Trustees or any other body, in whatever capacity, if this Ordinance had not been promulgated and shall continue to do so, unless and until his employment in the foundation is terminated or until his tenure, remuneration and other terms and conditions are duly altered by the Foundation :

Provided that the tenure, remuneration and other terms and conditions of service of any such officer or employee shall not be altered to his disadvantage without the previous approval of the Central Government.

CHAPTER IV

FINANCE ACCOUNTS AND AUDIT

21. *Grants by Central Government to the Foundation.*—For the purpose of enabling the Foundation to discharge its functions efficiently under this Ordinance, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Foundation in each financial year, such sums of money, on such terms and conditions as that Government may determine by way of grant, loan or otherwise.

22. *Fund of the Foundation.*—(1) The Foundation shall have its own Fund ; and an sums which may, from time to time, be paid to it by the Central Government and all the receipts of the Foundation (including any sum which the State Government or any other authority or person may pay to the Foundation) shall be credited to the Fund and all payments by the Foundation shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such bank or invested in such manner as may, subject to the approval of the Central Government, be decided by the Governing Board.

(3) The Foundation may spend such sums as it may think fit for performing its functions under this Ordinance, and such sums shall be treated as expenditure payable out of the Fund of the Foundation.

23. *Budget.*—The Foundation shall prepare, in such form and at such time each year, as may be prescribed, the budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

24. *Accounts and Audit of the Foundation.*—(1) The Foundation shall maintain proper

accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be approved by the Comptroller and Auditor-General of India.

(2) The accounts of the Foundation shall be audited by the Comptroller and Auditor General of India and any expenditure incurred by him in connection with such audit shall be payable by the Foundation to the Comptroller and Auditor General of India.

➤ (3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Foundation, shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Foundation.

(4) The accounts of the Foundation as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

25. Duty to furnish returns, annual reports, etc.—(1) The Foundation shall furnish to the Central Government at such time and in such form and in such manner, as may be prescribed, or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the object of the Foundation, as the Central Government may, from time to time, direct.

(2) Without prejudice to the provisions of sub-section (1), the Foundation shall, as soon as possible after the end of each financial year, submit to the Central Government an annual report in such form and before such date as may be prescribed, giving a true and full account of its activities and programmes during the previous year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

26. Prior approval of the Central Government for alienation of property.—The Foundation shall not, except with the previous approval of the Central Government, shall or otherwise dispose of any property vested in the Foundation.

27. Power of Central Government to give directions to the Foundation.—(1) The Central Government may, if it is satisfied that it is necessary so to do in the public interest, issue, for reasons to be recorded and communicated to the Foundation such, directions as it thinks fit.

➤ (2) Without prejudice to the generality of the foregoing powers, such directions may include directions requiring the Foundation—

- (a) to make or amend any regulation within such period as may be specified in the direction; and
- (b) to give priority to the work undertaken or to be undertaken by the Foundation in such manner as the Central Government may think fit to specify in this behalf.

(3) Any direction issued under this section shall have effect notwithstanding any thing contained in any law for the time being in force.

28. Dissolution of the foundation.—(1) The Central Government may, by notification and for reasons to be specified therein, dissolve the Foundation from such date and for such period as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Foundation to make representation against the proposed dissolution.

(2) When the Foundation is dissolved under sub-section (1).—

- (a) all members of the Governing Board, Academic Committee and the Finance Committee, notwithstanding that the terms of their office had not expired, shall, from the date of dissolution, vacate their offices as such Members;
- (b) all powers and duties of the Governing Board, Academic Committee and the Finance Committee shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf.
- (c) all properties and assets vested in the Foundation shall, during the period of dissolution vest in the Central Government; and
- (d) as soon as after the period of dissolution expires, the Foundation shall be reconstituted in accordance with the provisions of this Ordinance.

29. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer of that Government or the Foundation or Member or Director or any officer of the Foundation for anything which is in good faith done or intended to be done under this Ordinance.

30. Indemnity.—Every Member of the Governing Board, Academic Committee and the Finance Committee and the Director of the Foundation shall be indemnified by the Foundation against all losses and expenses incurred by them in relation to the discharge of their duties, except such as are caused by their wilful act or default.

31. Power to make rules.—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

- (a) the allowances to the Members under sub-section (5) of section 12;
- (b) the powers which the Governing Board shall exercise and the functions which it shall discharge under sub-section (2) of section 14;
- (c) functions to be performed by the Finance Committee, under clause (iv) of section 18;
- (d) the salary and allowances and other terms and conditions of service of the Director under sub-section (3) of section 19.
- (e) the form and the manner in which the budget is to be approved by the Governing Board under section 23;
- (f) the form and the manner in which, and the time at which the, returns, statements and the annual report shall be prepared under section 25;
- (g) any other matter which has to be, or may be, prescribed.

32. Power to make regulations.—(1) The Foundation may make regulations, not inconsistent with this Ordinance and the rules made thereunder, for enabling it to discharge its functions under this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

- (a) the management of the properties and funds, affairs and works of the Foundation;
- (b) the procedure in regard to transaction of business of the Governing Board and the Academic Committee (including quorum at their meetings) and the transaction of business of the Finance Committee under sub-section (3) of section 13, sub-section (3) of section 15 and sub-section (2) of section 17;
- (c) creation or abolition of posts and the procedure for appointment of the professional, administrative and ministerial staff.
- (d) the tenure of office and other terms and conditions of the members of the Academic Committee under sub-section (2) of section 15; and
- (e) the maintenance of accounts, registers and other records of the Foundation.

(3) No regulation made by the Foundation shall have effect 'until it has been approved by the Central Government and published in the Official Gazette, and the Central Government, in approving the regulation may make changes therein which appear to it to be necessary.

33. Rules and regulations to be laid before Parliament.—Every rule or regulation made under this Ordinance shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised, in one session or in two or more successive sessions and if before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

34. Power to remove difficulties.—(1) 'If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Ordinance.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

(See clause (d) of section 3)

1. Kalakshetra College of Fine Arts.
2. Craft Education and Research Centre consisting of—
 - (i) a Weaving Department, and
 - (ii) a Kalamkari unit,
3. Besant Theosophical Senior Secondary School.
4. Besant Theosophical High School.
5. Besant Centenary Hostel.

PART A

Sl. No.	Document No.	Date	Village	Taluk	District	Survey No.	Paimash No.	Extent
1	2	3	4	5	6	7	8	9
1.	1541	16-8-49	Thiru- vanmiyur	Saida- pet	Chingle- pet		1225/A 1228	0-3-8 1-8-4
2.	1542	16-8-49	-do-	-do-	-do-	"	1227/E	1-11-12 Cawnies
3.	1543	16-8-49	-do-	-do-	-do-	"	"	0-9-0 Cawnies
4.	768	12-5-54	-do-	-do-	-do-	"	1219 1224	0-75 Cents 0-3-12 0-6-2 0-3-12 0-6-2
(In rectification of Sl.No.3)								
5.	1544	16-8-49	-do-	-do-	-do-	"	947-C 1226-C 1226-D	0-11-0 0-6-0 0-12-0
6.	1605	25-8-49	-do-	-do-	-do-	"	1228 B 1226 A 1226 C/1 1227 D	1-13-0 0-6-10 Cawnies 0-55 Cents
7.	1960	13-10-49	-do-	-do-	-do-	"	1227 F	0-3-12 Cawnies
8.	1984	15-10-49	-do-	-do-	-do-	"	1227/F	0-5-8 Cawnies
9.	1324	26-11-49	-do-	-do-	-do-	O.S. No.327 R.S. No.528	House and Ground No.18, Andiappa Gramani Street, Royapuram-13.	. 1491 Sq. ft.
10.	1324	26-11-49	-do-	-do-	-do-	"	1229/C	0-10-0 Cawnies =Acre 14 cents
11.	2752	11-12-50	-do-	-do-	-do-	"	1219/A-3 1224/D	0-3-12 Cawnies 55 Cents
12.	2759	21-12-50	-do-	-do-	-do-	"	1219	0-3-12 Cawnies =50 Cents
13.	1865	2-9-52	-do-	-do-	-do-	"	1228	0-3-8 1-8-4
<hr/>								1-11-12 =1 Acre 98 Cents

1	2	3	4	5	6	7	8	9
14.	621	27-3-59	Thiruvanmiyur	Saidapet	Chinglepet	..	973-B 972 961-C/1 961-L 964	0-7-0 5-7-0 0-3-4 0-9-10 2-5-2
								9-0-0 Cawnio =12 acres
15.	769	12-5-54	-do-	-do-	-do-	..	1219 1224	50 Cents
16.	2068	24-8-56	-do-	-do-	-do-	..	979-C	1-11-14 Cawnies
17.	2151	3-9-56	-do-	-do-	-do-	..	974/A;	2-0-0 Cawnies =2 acres 66 cent
18.	863	April, 1960	-do-	-do-	-do-	158/1	882-B 882-D 886-D 957-A 958-A 963-A 964 886-C 964 Part	21 Acre 6 Cents
						170/1	964 Part 975 C Part	
			Thiruvanmiyur	Saidapet	Chinglepet	170/3	975J 973A 973A 1 973A 2 75C Part 975G 975H 975I I 975M 97 G 975H 2 975 K	
19.	291	6-2-63	-do-	-do-	-do-	166/2	957-B 962 963-B 966 968-C	22 acres approximately.
20.	754	22-3-63	-do-	-do-	-do-	161/2	857 882-C(Part) 877-A 94) 941 942	27 Acres 74 cents approximately.

1	2	3	4	5	6	7	8	9
21.	1481 April, 1968	Thiruvannaiyur	Saidapet	Chinglepet	178/3Part 178/8	955-A 965 961-H 1212 1214		4 grounds 1988 Sq.ft.
22.	1482 April, 1968	-do.	-do.	-do.	178/3 178/8.	1184 1185 1220	-do.	8 grounds 96 Sq.ft.

All the buildings on the above lands, institutions, all assets whatsoever including Bank balances and cash of the Kalakshetra.

PART B

Sl. No.	Document No.	Year	Village	Taluk	District	Survey No.	Paimash No.	Extent
1	2	3	4	5	6	7	8	9
1.	448		Thiruvannaiyur Village	Saidapet Taluk	Chinglepet District	..	977,1212, 1213,1214, 1215,1216, 1217,1218, 1219, and 1221	15-7-4 Cawnies
2.	1224	1908	-do.	-do.	-do.	..	968C	2-0-8 Cawnies
3.	2382	1913	-do.	-do.	-do.	..	967, 968C	2-0-8 Cawnies
4.	2559	1913	-do.	-do.	-do.	..	967,968	2-0-8 Cawnies
5.	4544	1919	-do.	-do.	-do.	..	532D,533, 534	3-7-8- Cawnies
8.	2642	1920	-do.	-do.	-do.	..	967,968, 968C	4-1-0 Cawnies
7.	1325	1927	-do.	-do.	-do.	..	533,534, 532	3-7-8 Cawnies
8.	1966	1940	-do.	-do.	-do.	..	976A,971B	2-2-0 Cawnies
9.	2056	1941	-do.	-do.	-do.	..	984	0-4-6 Cawnies
10.	2194	1941	-do.	-do.	-do.	..	984	0-4-6 Cawnies
11.	522	1943	-do.	-do.	-do.	..	976A,971B	2-2-0 Cawnies
12.	1471	1943	-do.	-do.	-do.	..	976A, 971B	6-2-0 Cawnies
13.	1380	1937	-do.	-do.	-do.	..	191	1-4-0 Cawnies
14.	1381	1937	-do.	-do.	-do.	..	191	1-4-0 Cawnies
15.	1032	1945	-do.	-do.	-do.	..	532,534	3-7-8 Cawnies
16.	1744	1929						
(Parent document of Item 15)								
17.	1134	1945	-do.	-do.	-do.	..	984,984	0-4-6 Cawnies
18.	1224	1945	-do.	-do.	-do.	..	971B,976A	0-4-6 Cawnies
19.	1268	1945	-do.	-do.	-do.	..	970B, 970D	6-2-0 Cawnies
20.	1598	1945	-do.	-do.	-do.	..	967,968, 968C	2-8-0 Cawnies 4-1-0 Cawnies

1	2	3	4	5	6	7	8	9
21.	1941	1945	Thiru- vanmiyur Village	Saida- pet Taluk	Ching- lepet	..	1226A/1 1226B/1	0-5-15Cawnies
22.	1942	1945	-do-	-do-	-do-	..	1226B/2	0-15-13Cawnies
23.	1988	1945	-do-	-do-	-do-	..	976B,979A	2-6-0 Cawnies
24.	353	1947	-do-	-do-	-do-	..	976A/1	3-0-0 Cawnies
25.	2275	1947	Thiru- vanmiyur pet	Saida- pet	Ching- lepet	O.S. No.267		0-5-12
						268		0-5-6
						269		3-10-2
						270	0-0-12	0-0-12
						270A		2-4-0 1-4-0
						271		1-4-0 1-4-0
						278		1-0-0 4-15-0
						279		1-0-0 0-3-0
							1226,1226A	0-1-12
							1226B,967	0-5-13 2-1-10
							968A,868C,	0-5-9 2-9-0
							970B,970D	0-0-6 0-2-0
							971B,976A	1-10-4 2-4-0
							532D,533	0-5-10
							979A,	2-0-8.
26.	3776	1947	-do-	-do-	-do-	..	1214A, 1217A, 1218A,1218B.	3-9-6 Cawnies
							1212,1213, 1215,1216, 1221.	6-6-10 Cawnies
27.	3777	1947	-do-	-do-	-do-	..	1212,1213, 1215,1216, 1214A, 1217, 1218A, 1219B.	6-6-10 Cawnies 3-9-6 Cawnies
28.			Sowcarpet, Registration District of Madras		-do-	(O.S. No.695, 742) 10168/2 & 10170	House No. 2/500 Minut Street, P.T. Ms.	1,397 Sq.ft.
			North Madras Madras		-do-	(O.S. No.2506) R.S.No. 3376	House No. 117, lingi Chetty St. G.T.Ms.	1.331 Sq.ft.
29.	1606	1950	Thiru- vanmiyur	Said- apet	-do-	..	1214,1217, 1218,1219B	2-9-0
30.	909	1961	-do-	-do-	-do-	..	500 500	0-8-0 Cawnies 3 Grounds 1,270 Sq.ft.

All the buildings on the above lands, institutions, and all the assets whatsoever including Bank balances and cash of the Kalakshetra and Besant Centenary Trust/Hostel in the City of Madras.

SHANKER DAYAL SHARMA.

President.

K.L.MOHANPURIA.
Secy. to the Govt. of India.

CORRIGENDUM

In the Foreign Exchange Regulation (Amendment) Ordinance, 1993 (Ord. 9 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 8th January, 1993 (Issue No. 12), at page 6, in line 9, after "inserted." "namely:—".

CORRIGENDUM

In the Uttar Pradesh Krishi Utpadan Mandi Samitis (Alpakalik Vyawastha) Amendment Ordinance, 1993 (Ord. 11 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 16th January, 1993 (Issue No. 14), at page 1, in the long title, in line 2, for "Adhiniam", read "Adhiniyam".

CORRIGENDUM

In the Uttar Pradesh Co-operative Societies (Amendment) Ordinance, 1993 (Ord. 12 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 16th January, 1993 (Issue No. 15), in the Promulgation paragraph, in line 2, for "Rebublic", read "Republic".

CORRIGENDUM

In the Uttar Pradesh Subordinate Services Selection Commission (Amendment) ordinance, 1993 (Ord. 13 of 1993) as published in the Gazette of India, Extraordinary, Part II Section I, dated the 16th January, 1993 (Issue No. 16), at page 1, in the short title, for "COMMISSON", read "COMMASSION"

CORRIGENDUM

In the Motor Vehicles (Uttar Pradesh Amendment) Ordinance, 1993 (Ord. 14 of 1993) as published in the Gazette of India, Extraordinary, (Part II, Section 1, dated the 16th January, 1993 (Issue No. 17), at page 2, in line 12, for "understaking", read "undertaking",

CORRIGENDA

In the Oil and Natural Gas Commission (Transfer of Undertaking and Repeal) Ordinance, 1993 (Ord. 28 of 1993) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 2nd July, 1993 (Issue No. 89),—

1. At page 1,—

- (i) in the long title, in line 1, for "he transfer", read "the transfer".
- (ii) in the preamble, in second paragraph, in line 3, for "th following", read "the following".

2. At page 2.—

- (i) in line 18, for "right", read "rights";
- (ii) in line 20, for "ownershipff", read "ownership";
- (iii) in line 37, for "enfored", read "enforced".

3. At page 3,—

- (i) in line 5, for “unde”, read “under”;
- (ii) in the marginal heading against section 7, for “Guran”. read “Guaran—”;
- (iii) in line 39, for “oher”, read “other”;

4. At page 4,—

- (i) in line 8, for “shal”, read “shall”;
- (ii) in line 11, for “availability”, read “availibility”;
- (iii) in line 34, for “Ces-”, read “Cen-”;
- (iv) in line 41, before “in session”, insert “it is”;
- (v) in the last line, for “the”, read “that”.

5. At page 4,—

- (i) against section 11, in marginal heading, in line 2, for “act”, read “Act 43 of 1959”;
- (ii) in line 4, for “section”, read “sections”.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st October, 1993/Bhadra 10,1915 (Saka)

**THE CHIEF ELECTION COMMISSIONER AND OTHER
ELECTION COMMISSIONERS (CONDITIONS OF
SERVICE) AMENDMENT ORDINANCE, 1993
No. 32 OF 1993**

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to amend the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993.

(2) It shall come into force at once.

2. Amendment of long title.—In the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991 (11 of 1991). (hereinafter referred to as the principal Act), in the long title, for the words “and for matters”, the words “and to provide for the procedure for transaction of business by the Election Commission and for matters” shall be substituted.

3. Amendment of section 1.—In section 1 of the principal Act, for the words and brackets “the Chief Election Commissioner and other Election Commissioners (Conditions of Service)”, the words and brackets “the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business)” shall be substituted.

4. *Amendment of section 2.*—In section 2 of the principal Act, clause (b) shall be re-numbered as clause (c) and before clause (c) as so re-numbered, the following clause shall be inserted, namely :—

“(b) “Election Commission” means the Election Commission referred to in article 324 of the Constitution”.

5. *Amendment of section 3.*—In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) the brackets and figure “(1)” shall be omitted;

(ii) after the words “Chief Election Commissioner”, the words “and other Election Commissioners” shall be inserted;

(b) in sub-section (2), the brackets, figure and words “(2) There shall be paid to an Election Commissioner a salary which is equal to the salary of a Judge of a High Court” shall be omitted.

6. *Amendment of section 4.*—In section 4 of the principal Act, for the first proviso, the following proviso shall be substituted, namely :

“Provided that where the Chief Election Commissioner or an Election Commissioner attains the age of sixty-five years before the expiry of the said term of six years, he shall vacate his office on the date of which he attains the said age.”.

7. *Amendment of section 6.*—In section 6 of the principal Act,—

(a) in sub-section (2),—

(i) after the words “Chief Election Commissioner”, the words “or an Election Commissioner” shall be inserted;

(ii) for the word, brackets and figure “sub-section (4)”, the word, brackets and figure “sub-section (3)” shall be substituted;

(b) sub-section (3) shall be omitted;

(c) sub-section (4) shall be re-numbered as sub-section (3) and in sub-section (3) as so re-numbered, in clause (b), the words “or as the case may be, sixty-two years,” shall be omitted.

8. *Amendment of section 8.*—In section 8 of the principal Act, for the portion beginning with the words “for the time being, applicable to”, and ending with words “apply to an Election Commissioner”, the following shall be substituted, namely :—

“for the time being, applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 41 of 1958, and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners”.

9. *Insertion of new Chapter III.*—After section 8 of the principal Act, the following

Chapter shall be inserted, namely :—

“CHAPTER III

TRANSACTION OF BUSINESS OF ELECTION COMMISSION

9. *Transaction of business of Election Commission.*—The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

10. *Disposal of business by Election Commission.*—(1) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(2) Save as provided in sub-section (1), all business of the Election Commission shall, as far as possible, be transacted unanimously.

(3) Subject to the provisions of sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter such matter shall be decided according to the opinion of the majority”.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

